

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KATHERINE P. KEALOHA (1),  
LOUIS M. KEALOHA (2),  
DEREK WAYNE HAHN (3),  
MINH-HUNG NGUYEN (4),  
GORDON SHIRAISHI (5), and  
DANIEL SELLERS (6),

Defendants.

CR NO. 17-00582-JMS

DECLARATION OF COUNSEL

**DECLARATION OF COUNSEL**

I, CYNTHIA KAGIWADA, hereby declare as follows:

1. I am counsel for defendant, KATHERINE P. KEALOHA, having been appointed pursuant to the Criminal Justice Act by the Honorable Richard L.

Puglisi, on November 13, 2017.

2. The facts and statements set forth in the foregoing document are true and correct to the best of my knowledge, information, and belief.

3. I am representing Ms. Kealoha pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A. In addition, all of the defense team, including a paralegal, who is

based in California, investigators, and a jury consultant are assisting in the defense pursuant to the Criminal Justice Act.

4. On December 22, 2019, the federal government shutdown began and is now the longest federal shutdown on record at twenty-six days and in its fourth week. *See* “The Government Shutdown: Where Things Stand,” The New York Times (Jan. 16, 2019). Since the shutdown, I have been actively monitoring the shutdown, which has historically never lasted longer than twenty-one days. In addition, as of today, there is no apparent proposed resolution for the shutdown. *See id.*

5. Today, I spoke to Kristine Fox, CJA Circuit Case Managing Attorney for the United States Court of Appeals. Ms. Fox confirmed that no one will be compensated under the Criminal Justice Act until the shutdown ends. This lack of funding includes attorney’s fees, paralegal hours, investigator hours, and other defense team hours. In addition, she confirmed that although airfare may still be booked through the government’s National Travel Center, the majority of other travel-related expenses including accommodations, miscellaneous other travel expenses, and per diem expenses will not be paid until the shutdown ends. She further confirmed that defense counsel or other members of the defense team will have to advance those expenses and seek reimbursement when the shutdown ends.

6. In addition, Ms. Fox confirmed that other trial-related expenses such as copying and preparing exhibits, and witness travel expenses and fees will not be paid until the shutdown ends. Again, defense counsel or other members of the defense team will have to advance those expenses and seek reimbursement when the shutdown ends.

7. I have been attempting to secure expert witnesses and other vendors to assist with trial preparation and trial. At least one vendor has definitely stated that his company cannot provide work, with no assurances as to when payment will be made. Additionally, I am not able as CJA counsel to advance all of the costs necessary for trial preparation and trial under these circumstances.

8. I am a sole practitioner with no additional office personnel such as a secretary, a legal assistant or a paralegal. I am expending an extraordinary amount of time managing the budgeting aspects of this case and seeking to resolve the financial aspects of trial preparation. These additional burdens are impacting the time that I need to spend on the legal and strategic phases of trial preparation.

9. I have been a member of the Criminal Justice Act Panel in this district since 2004. While I and my defense team are striving to provide an effective defense for Ms. Kealoha pursuant to the Criminal Justice Act and the Sixth Amendment of the United States Constitution, the shutdown is affecting our abilities and severely hampering our efforts.

10. This motion is not being presented for any improper purpose such as to harass or cause needless delay but is intended to further the fair administration of justice.

I hereby declare under penalty of perjury that the foregoing statements are true and correct, to the best of my knowledge, information, and belief.

DATED: Kaneohe, Hawai'i, January 16, 2019.

Respectfully submitted,

/s/ Cynthia A. Kagiwada  
CYNTHIA A. KAGIWADA  
Attorney for Defendant-Appellant  
KATHERINE P. KEALOHA